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202, 76 S. W. 680. But this is not true if the car, though it has slowed down, is still running rapidly. *Balto. Traction Co. v. State*, 78 Md. 409, 28 Atl. 397.

A person who attempts to board a car which has not slowed down in response to his signal is not a passenger, for no acceptance of his offer can be implied. *Schepers v. Union Depot Ry. Co.*, *supra*. And the same result follows when a person attempts to board a moving car to which he has not signaled at all. *Foster v. Electric Co.*, 35 Wash. 177, 76 Pac. 995; *Mathews v. Metropolitan St. Ry. Co.*, 156 Mo. App. 715, 137 S. W. 1003. One is not a passenger who, under the same circumstances, gets on a step not intended for passengers. *Speaks v. Metropolitan St. Ry. Co.*, 179 Mo. App. 311, 166 S. W. 864. Nor one who attempts to get on a car not intended for passengers. *Howard v. Ry. Co.*, 125 App. Div. 776, 110 N. Y. Supp. 125. And where one jumped on the steps of a moving car and declined to come inside when told that he could not ride there, he was not considered a passenger. *Hogner v. Boston Elevated Ry.*, 198 Mass. 206, 84 N. E. 464, 15 L. R. A. (N. S.) 960.

CONFLICT OF LAWS—VALIDITY OF FOREIGN MARRIAGES—EVASION OF LAW OF DOMICILE.—In order to evade the law of their domicile prohibiting a marriage between uncle and niece, the parties went to another state where such marriages were legal and were there married. A suit was brought by an heir of the respondent's husband to have the marriage declared void. *Held*, the marriage is valid. *Fensterwald v. Burk* (Md.), 98 Atl. 358.

As a general rule, the laws of the *lex loci contractus* determine the validity of a marriage, and hence marriages valid where celebrated are valid everywhere. *Medway v. Needham*, 16 Mass. 157, 8 Am. Dec. 131; *Jackson v. Jackson*, 82 Md. 17, 33 Atl. 317, 34 L. R. A. 773; *Hiram v. Pierce*, 45 Me. 367, 71 Am. Dec. 555; MINOR, CONFL. L., § 73. There is an important exception to this general rule universally recognized among Christian countries, namely, that marriages which contravene the laws of Christendom, such as bigamous and incestuous marriages, will not be recognized anywhere. MINOR, CONFL. L., § 75; STORY, CONFL., § 113, *et seq.* To be incestuous as the term is commonly accepted in Christian countries, the marriage must be between persons who are related by blood in the lineal ascending or descending line, or between brothers and sisters, whether of whole or half blood. See *Sutton v. Warren*, 10 Metc. (Mass.) 451; MINOR, CONFL. LAWS, § 75; STORY, CONFL. L., § 114, *et seq.*; 1 BISHOP, MARRIAGE, DIVORCE AND SEPARATION, § 861.

A second exception to the general rule above mentioned is that those marriages celebrated in another state in order to evade a statute of the state of domicile positively prohibiting marriages between such persons as *contra bonos mores* and, therefore, against the policy of the domicile state, are void in that state no matter where celebrated. *Kinney v. Commonwealth*, 30 Gratt. (Va.) 636, 32 Am. Rep. 690. Marriages between white people and negroes, prohibited in most states, are generally considered as coming within this class. *Greenhow v. James' Ex.*, 80 Va. 636, 56 Am. Rep. 603; *State v. Kennedy*, 76 N. C. 251; *Kinney v. Common-*

wealth, supra. However, in Massachusetts such prohibition is not regarded as enunciating the public policy of the state, and therefore it is considered better to apply the general rule upholding marriages valid where celebrated. *Medway v. Needham, supra.* And where a state prohibits persons related in a certain degree from marrying, considering such marriages incestuous and punishing the parties for living together the penal provision is considered as evidencing an intention on the part of the state of absolutely prohibiting those marriages which are, therefore, void though celebrated in a state which recognizes them as legal. *Johnson v. Johnson*, 57 Wash. 89, 106 Pac. 500; *United States v. Rogers*, 109 Fed. 886. But where there is no penal provision in the statute, and the marriage is not expressly declared void, if it is not incestuous in the strict sense it will be upheld if valid where the ceremony was performed. *Stevenson v. Gray*, 17 B. Mon. (Ky.) 193; *Sutton v. Warren, supra.* Some states have disregarded the general rule so far as to declare a marriage void when one of the parties, a citizen of that state, has been divorced and prohibited from marrying again, though no such prohibition existed in the state where the marriage was celebrated. *Pennegar v. State*, 87 Tenn. 244, 10 S. W. 305, 2 L. R. A. 703; *Re Stull*, 183 Pa. 625, 39 L. R. A. 539. The majority of the courts and text writers hold that these prohibitions are penal in their nature and must be strictly construed; therefore, marriages of such persons valid where they take place are also valid in the state of domicile, unless the statute has expressly shown an intent to exercise extraterritorial jurisdiction. *Van Voorhis v. Brintnall*, 86 N. Y. 18, 40 Am. Rep. 505; *State v. Shattuck*, 69 Vt. 403, 60 Am. St. Rep. 936; *Moore v. Hegeman*, 92 N. Y. 521, 44 Am. Rep. 408; MINOR, CONFL. L., § 74.

Though there seems to be much conflict on the question involved in the principal case, yet the underlying foundation of the decisions on both sides is whether the prohibitive statute expresses the distinct policy of that state. If the statute does express the public opinion of the state, marriages in violation of it are invalid; while if such is not the case, the general rule upholding marriages is applied and they are held to be valid. Though, as shown above, the weight of authority is perhaps contrary to the decision in the principal case, this may be explained by the construction of the statute as merely making marriages in violation of it voidable.

CONTRIBUTORY NEGLIGENCE—USE OF STREETS—DUTY OF PEDESTRIANS.—The plaintiff was crossing a village street when he was struck by the defendant's automobile only a short distance north of where the road turned. Before crossing, the plaintiff looked to the south and saw nothing, but failed to look again. *Held*, the plaintiff was not guilty of contributory negligence in not keeping a constant lookout; for the rule that one must stop, look and listen does not apply to persons using a public highway. *Aiken v. Metcalf* (Vt.), 97 Atl. 669.

The pedestrian and the driver of an automobile have reciprocal rights and duties in the use of public highways, both being required to exercise ordinary care. *Baker v. Close*, 204 N. Y. 92, 97 N. E. 501, 38 L. R. A.